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THE PUBLIC LIFE OF FRANCIS BACON

TO the majority of readers, the name Francis Bacon suggests immediately one of the most versatile geniuses of all time. So voluminous and so diversified was the output of his mind in the fields of philosophy, science, and literature, that it is easy to overlook the fact that the man had also a busy career in the alien field of politics, one that possibly was hardly in keeping with the nobility of his other work. Could we but have a true picture of Bacon's entire career, it would, like the life and even the art of his day, reveal strong contrasts of light and of shadow. The philosopher seems hardly the same being as the courtier and politician. A picture of such irreconcilable contrasts is always difficult to evaluate permanently and fairly. Some see only the bright portions while others are more strongly affected by the shadows. So it is with the picture of Bacon. Spedding, his greatest biographer, has sought to gloss over many of his defects; and others, carried away by conspicuous political failures, have adopted the un-Baconian attitude of refusing to believe that much good could originate with this political manipulator of the seventeenth century. On the other hand, Pope sought in vain to epitomize fairly the many-sided Bacon as "the wisest, brightest, and meanest of mankind"; and Macaulay, in his melodramatic essay, described him as a monster, part angel and part snake. Endless controversy has raged over this picture of conflicting tendencies, and so it will always be, for Bacon's life is an

enigma. His philosophy may be understandable, his science may be subject to analysis, but he who believes he can unravel the tangled web of Bacon's political career, possibly has more courage than good judgment. The mere unbiased narration of a series of historical events is a human impossibility, as is the determination of the motives back of them. Each new attempt at the solution of the problem is merely a restatement of the old facts and a statement of another opinion; the problem of Bacon's character will never really be solved.

The anchor-threads of this tangled web of complexity are far-reaching; they extend back into the character of the times, to Bacon's hereditary nature, and to his early life and training. After the Wars of the Roses, some hundred years before Bacon's day, England had accepted the absolutism of the Tudors as a restful alternative to the anarchy of civil war. The Almighty was still given the rather doubtful credit for the selection of a ruler, and the monarch so chosen was wont to govern by his inspired personal wisdom or whim. The wheels of government were turned usually by men who pleased the king, not always by those who understood the machine. Most public men were those who best served themselves by serving the State. Bacon and his father before him knew many courtiers, but they knew few statesmen. A standard guide-book was the "Prince" of Machiavelli. Parliament was a gear that seldom meshed; it was something to threaten and flatter out of money and, with that, its connection with the government was supposed to cease. The questioning, reforming undercurrent of democracy, though beginning, was scarcely perceived and but little understood.

Common Law and Equity were at death grips. The older system was behind the times and swamped with technicali-

ties, while the Equity of Elizabeth's day was a mixture of just principles from the Civil Law and pernicious royal interference. Men of Bacon's school saw mainly the technicalities of the Common Law, and all that men like Coke could see in Equity was an excuse for destroying the growing independence of the judiciary. A harmonious union of these apparently conflicting tendencies is now a matter of history, but in 1600 no workable compromise had appeared and there was room for a reasonable difference of opinion.

On every other field of human endeavor a strange new light was breaking. Absolutism in Pope as well as King was dying. New creeds and sects were springing up, each fighting for its own kind of liberty; to evolve, finally, a spirit of real toleration. The intellectual tyranny of scholasticism was falling before the inquiry of minds working under stimuli such as few other ages have afforded. Individualism was growing in religion, philosophy, and government; revolt against the organization was beginning. Columbus had revolutionized geography; Copernicus had unfolded the universe; Raleigh, Hawkins, and Drake were showing England the way to sea power, to colonies, to prosperity; and Shakespeare was writing as never man wrote. If all the world's a stage, truly this Elizabethan stage had a most unusual setting—with a background of all that was old on which the light of a new age was fitfully playing. Small wonder it is that its actors played marvelously, brilliantly; even though, at times, bewildered by their surroundings, some failed to understand fully the real meaning of their parts.

Francis Bacon was born on January 22, 1561, the youngest son of Lord Keeper Nicholas Bacon, England's highest judicial officer, said to have been the second "prop" of the Kingdom. Bacon's father was a scholarly and capable man,

a courtier, but at that, probably as much a statesman as any other man of his day. Bacon's mother was a woman noted for her education and for her intellectual independence. She trained her children carefully and spent her spare time translating from other tongues choice sermons on predestination for Puritan consumption. She was a sister-in-law of Burleigh, who was Elizabeth's Lord High Treasurer and confidential adviser, the first "prop" of the Kingdom. A better setting of heredity and of influential connections can hardly be imagined for a youth destined to aspire to political greatness.

From early childhood, Bacon never exhibited those robust physical tendencies which so frequently make rowdies out of growing boys. His weakness led to a sheltered home life and to intensive parental training. Even though his body never really outgrew its constitutional frailty, his mind responded remarkably to such influences and developed unusual keenness and breadth. The youth was far more interested in the intellectual conflict within and around him and in the courtly affectations of the wise and great who visited at the Bacon home than in the sports of the boys who should have been his playmates. While yet a mere child he was presented to the Queen and exhibited such precocity in speech and manner that Elizabeth called him her "young Lord Keeper". When she asked him his age, he is said to have replied, "two years younger than your Majesty's happy reign". Although we have every reason to believe that Bacon learned early to evaluate properly the traditional ceremony and flattery attached to English life, still he was a polished courtier when we first see him and a courtier he remained until his death.

When he was thirteen years of age he was sent to Cambridge for an abbreviated college course. Probably that

ancient seat of learning never had a more unusual pupil. He could bow in courtly fashion to the outward forms and easily master his lessons. At the same time he pierced the veneer of scholasticism and despised both the contents and method. After about two years his mind refused to assimilate any more of this diet and he left the university in disgust to work out his own salvation. As might be expected, Bacon's father had political ambitions for his unusual son, and he soon attached young Francis to the British Embassy in France. There, Bacon added much to his well-learned English lessons by considerable study and more observation. Two years later Sir Nicholas died suddenly, and before he had time to arrange for the estate which he had hoped to settle on his youngest son; so the youth, thrown almost entirely on his own resources for a livelihood, was compelled to return to England.

Some lucrative career had to be selected. Naturally, a brilliant mind set in a stimulating age had universal interests. With his usual ambition, Bacon marked off the whole field of knowledge as his province. On the one hand, he felt that he was more fitted for a life of contemplation than for one of action. On the other, many influences, not least of which was the need for money, drew him toward a political career. From childhood his associations had been almost entirely with the leading lights of Elizabeth's Court, not with scholars. He had observed the compensations of political success and had learned to love the trappings of the great and wealthy. He never doubted his ability to succeed in any line of activity. Therefore, it seemed reasonable to him that he could devote much of his life to the improvement of the State and use the resulting wealth and leisure to build new systems of thought as well. With his powerful connections, the door to public service seemed

open; so he took up the study of law, ever considered the necessary foundation for statesmanship.

Backed by his uncle, Lord Burleigh, Bacon was elected to the House of Commons at the early age of twenty-three. From that time on, he sat in each of the nine Parliaments that were called during the thirty-seven years of his career. From the very first, Bacon appears to have taken an active part in parliamentary debates and his eloquence and judgment almost at once made him a leader in the House of Commons, a leadership he retained during the entire period of his parliamentary service. He was usually the head of important committees, committees for conference with the Lords or with the King, where his ability as a reconciler of opposing forces made him an outstanding figure.

It is worthy of notice that, especially at the beginning, Bacon strove to elevate the position of the Lower House to a loftier function than that of merely registering the ruler's demands for money. But it is doubtful if for the future development of Parliament he ever had any really liberal tendencies. Any possible liberalism on this point was abruptly checked by an extremely unfortunate incident occurring early in his career. This experience arose in connection with the Parliament called in 1593 to vote funds for a war which seemed imminent with Spain and Scotland. A difference of opinion soon appeared concerning the amount needed and also concerning the method of collection. The crown proposal involved the doubling of taxation almost immediately. This, for apparent reasons, Bacon opposed, and argued that while the amount requested should be granted, an emergency portion should not be collected unless it were actually needed. His vigorous argument, however, did not prevail, and the Queen, together with his uncle, Lord Burleigh, was much displeased. Called to account by Burleigh,

Bacon protested that he was only seeking to improve the measure rather than to hinder its passage and was profuse in his expressions of regret that his attitude had given offense. While it may be granted that he was sincere in his views, it is unlikely that he ever intended to carry his objections to the point of really questioning the royal prerogative. He was born within the ruling class and his whole background would seem to militate against his ever becoming an advocate of parliamentary government. He seemed never to understand the spirit of popular revolt that was beginning even in Elizabeth's reign. Though he must have recognized the weaknesses of contemporary rulers, he feared the inexperienced mob of Parliament more. Probably this stand, though having some basis in conviction, was not the move of a real reformer; very possibly it was only the magnificent gesture of a youth striving for fame. The unfortunate result changed the whole course of Bacon's life; it was one of the contributing factors in his failure to secure advancement under Elizabeth; it taught him the sad political lesson that it is usually safer to sail with the wind.

Parliamentary service yielded no money and a rather doubtful glory. Bacon's financial situation and his aspiring soul demanded pay as well as position. The monarch's favor was the open door to wealth and fame. A youth of Bacon's ability and powerful connections might naturally expect early preferment. He lost no time in beginning his suit, both to his uncle, Burleigh, and to Elizabeth herself. In inviting the Queen's attention to his talents, Bacon took up one of the outstanding issues of the day—the question of the proper relationship between the Roman Catholics, the adherents to the Church of England, and the Calvinistic Puritans. Religious tolerance was not one of the national virtues of England three centuries ago. All Protes-

tants were disturbed about the machinations of local and foreign supporters of Mary Stuart and convinced that the Roman Catholic party in general threatened the existing government. The two groups of Protestants were also decidedly at odds, the State Church insisting on conformity to prescribed method of worship and thought, the Puritans equally intolerant in their independent views. Elizabeth stood with the first Protestant group and a minority in the Commons with the second. In his "Letter of Advice to Queen Elizabeth", written at the age of twenty-four, the first of an almost endless series of unsolicited letters of advice, Bacon took a stand for toleration that was far in advance of his time. The Roman Catholics, he held, could not be made contented, nor could their threat be lessened by driving them to despair. His plea was for general toleration, and, though theoretically sound, it was considered too advanced to be practical. In this and other well-intended efforts, he was often so far ahead of his contemporaries that it is easy to believe that both Elizabeth and the practical-minded Burleigh marked him as a visionary philosopher rather than a man to be trusted with affairs of state.

Very shortly, Burleigh secured for Bacon the reversion of a clerkship in the Star Chamber, a place worth over eight thousand pounds in present-day money. It was more or less a sinecure, involving little responsibility and only a small amount of routine labor. Here, Burleigh probably thought, the budding philosopher could dream about great instaurations without danger of wrecking the government. Bacon's fame might have been greater, had death only made the reversion possible by the prompt removal of the individual who then held the clerkship. But that gentleman very unoblingly kept Bacon waiting for nineteen years

while he continued to live and enjoy the revenues of the office.

To all outward appearances, at least, Elizabeth's wrath over Bacon's opposition in Parliament was soon appeased and Bacon was again hopeful. He was a frequent adviser of Her Majesty, by correspondence and also orally, for Elizabeth occasionally dined with him, charmed by the personality of the philosopher who had at his command so much of contemporary and ancient wit. But though she cultivated him and kept him hopeful, never, during her reign, was he destined to be thrown more than a scrap from her own bounteous table. True, he was made one of her Learned Counsel, but that position carried practically no stipend, and only occasional court assignments. These small tasks Bacon performed thoroughly and eagerly, but they served only to whet his appetite for more. All the while he was a briefless barrister, living often on money borrowed by himself and his indulgent brother.

During these years there were two indirect avenues of approach to the Queen. If Burleigh, the shrewd old statesman, commanded one, the other was a monopoly of the handsome, dashing young favorite, Essex. Attracted by the brilliance of Bacon's intellect and manners, Essex had eagerly included the youthful philosopher among his best friends. Although his cool nature did not admit of much affection, the friendship with Essex in these early days was as warm as any Bacon ever had. He had long sought to secure promotion through the mediation of his uncle, but in vain. So far, family connections had yielded nothing; and, although he never ceased to petition his relatives for aid, it is but natural that he should turn somewhat from them, to attach himself more closely to the rising star in English politics.

Where formerly Burleigh had shown indifference, now Essex showed the ardor of a warm friend. When Bacon brought down the wrath of the Queen, because of his parliamentary opposition to her war subsidy, it was Burleigh who reprimanded him, it was Essex who did his utmost to reinstate him in Elizabeth's good graces. When a vacancy occurred in the Attorney-Generalship, Essex urged the appointment of Bacon, but Elizabeth gave the position to Burleigh's candidate, a prominent lawyer, one Edward Coke. Chagrined at this failure to find a place for his friend, the impetuous Essex gave him an estate worth, in our day, more than thirty thousand dollars. The affairs of Essex prospered; he was not only the lion of the Court, a fortunate military exploit at Cadiz made him a national hero. At every turn, he looked to Bacon for advice and Bacon never failed him. Still, Essex could not persuade Elizabeth to advance his protégé. When a revolt broke out in Ireland, the hero of Cadiz seemed the logical leader of an armed expedition to pacify the island. Bacon had recognized that Essex's military success had been due more to good fortune than to genius and probably advised against the undertaking, although later he agreed to it. After a thoroughly mismanaged campaign, Essex found his forces decimated, Ireland in a worse state than ever, and himself discredited in Elizabeth's eyes. He believed that his enemies in the Queen's Court had intrigued against him, and he determined to return to London and reinstate himself in spite of the fact that he had been ordered by Elizabeth to remain in Ireland. It is probable that he even planned at one time to take his troops back with him and forcibly free the Queen from her evil advisers. Finally, he left the army and, in direct disobedience to orders, returned to London.

Such contempt the Queen felt obliged to discipline. Essex was arrested, but suffered no confinement other than detention in his own quarters in the personal custody of Lord Keeper Egerton. Elizabeth was inclined to be lenient toward her favorite, but something had to be done to keep up appearances. Although nothing was yet known about his plan to bring the army back to London, Bacon probably realized that his friend was too rash to remain long in high favor. Nevertheless, he pleaded with Elizabeth for mild treatment until she resented his persistency. At Essex's first hearing, Bacon, as one of the Learned Counsel, took active part. On this occasion, he dealt harshly with his benefactor, claiming afterwards that his rough treatment was but a screen to make a mild sentence possible. At any rate, Essex was soon given his freedom, deprived only of his right to appear at Court. Again, Bacon, in a letter to Essex, assured him of his eternal friendship.

For a number of months, Essex remained entirely at liberty. But banishment from the sunshine of the Court led him to conceive an insane opinion that his enemies were plotting his complete overthrow and death. Finally, aided by the Duke of Southampton, he collected a body of two hundred armed men and marched through the streets of London, urging the populace to join him in the destruction of the Queen's evil advisers. He imprisoned the Lord Keeper and several other dignitaries sent to quell the disturbance. When the smoke cleared away, Essex and his followers found themselves under arrest and charged with treason. This insurrection, though but the gesture of a fanatic, probably seemed a real threat to constituted authority, and Bacon faced the necessity of choosing between Essex and the Queen. History records no hesitancy on his part, and Essex was dropped.

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Had the matter stopped at this point, Bacon's name would have escaped the tarnish of alleged infidelity in friendship. But without protest he allowed the crafty Elizabeth to appoint him to serve, along with Coke, as one of the chief prosecutors. During the trial, if Coke digressed, it was Bacon who brought him back to the issue. Toward the end and after a bitter personal altercation with Essex, Bacon arose and painted a dark picture of the whole affair, comparing Essex with the Duke of Guise, whose insurrection, within the memory of many, had spread terror in France. Essex was condemned to death; that was probably inevitable. Many influential men, including Egerton, interceded for Essex after he had been sentenced, but Bacon held his peace. His service to Elizabeth was so outstanding that he was directed to draw up the "Official Declaration of the Treason of Essex". That Bacon's original draft was much altered by the Queen and her Council and that the report was put out in the name of the Council, detracts but little from the reproach of his having been selected as the best available man to blacken the memory of his former friend.

Apologists have tried to argue that Bacon was a patriot who put his country before his friend. It is true that he had just received the information regarding Essex's treasonable plans in Ireland, and it is likely that this magnified his fear of a revolution. It would not be difficult to accept such an explanation were it not for the fact that Bacon's chief activity came after the danger of revolt had passed and after it must have seemed clear that Essex would be condemned. If this be true, his attack on his benefactor not only grates on our sensibilities, it was entirely superfluous. One would be more likely to agree that his motives were pure had not Bacon later courted the favor of Southampton, the co-conspirator of Essex, when the accession of

James had restored the Essex faction to favor. Bacon's own defense of his position was also written after James had come to the throne. Is it too simple an explanation to say that here as at many other points in his life, Bacon coolly calculated the direction of the wind?

Only two years remained of Elizabeth's reign, years marked by increasing tension between the Queen and Parliament and by a cloud of unpopularity over Bacon. After all that he had done, he was destined to receive no further advancement from the Queen he had served so well. It is impossible to find a satisfactory explanation for this failure, except in a number of surmises. As indicated previously, possibly both Elizabeth and Burleigh considered him a visionary rather than a practical politician. Possibly Elizabeth distrusted him after his opposition in Parliament. Possibly she wished, in a relatively small matter, to show Essex that she was not entirely under his influence. Add to all these surmises the strong suspicion that Burleigh probably had no desire to create a rival for his son whom he wished to succeed him as Lord Treasurer and perhaps a general understanding can be had of Bacon's unfortunate situation.

The new ruler was James of Scotland, a man completely saturated with belief in the divinity of kings. Like his predecessor, he lacked the benevolence and political wisdom of the monarch under whom Bacon could have achieved greatness. He was vain, pedantic, a petty tyrant, a man often swayed by his own whim or that of some favorite. Burleigh's son, Salisbury, did succeed his father in the office of Lord Treasurer and he held it until his death. Bacon had little to expect in the way of aid from Salisbury, whose policies he despised. Still he met him at every turn with adulation and petitions for aid. The King's two successive favorites, Somerset and Buckingham, were courted at every

opportunity. With James himself Bacon made considerable progress, addressing to him self-recommendatory letters at every opportunity and supporting in Parliament the King's prerogative in general and, in particular, his favorite plan for the complete union of England and Scotland.

Much further reference to Bacon's petitions for favor would be wearisome. For over a quarter of a century, this man, with the possibilities of a political genius, used fair means and shady in futile attempts to satisfy his ambition for office and power. He pulled every political wire he could lay his hands on, turning from one to the other with unparalleled facility. When Burleigh had failed him, he turned to Essex, whom he dropped to do the bidding of Elizabeth. He recorded in his private diary the best method of flattering Salisbury and, when the latter died, wrote James expressing some hope for the Kingdom, now that his cousin was dead. He had a record as an office seeker that is likely to stand for all time. As for reasons why he should be advanced, he lacked none, be they great or small. Chief among these was his self-admitted capacity for real service to the crown. Now, he would seek favor in order to support his mother and avoid the disgrace of poverty. Again, he sought knighthood because he had "found out an alderman's daughter" whom he wished to marry. When he had become Sir Francis and had married the lady, office was still necessary for him to be able to hold up his head among his wife's relatives. His real ambition was undoubtedly for recognition of his ability and for a position which would enable him to guide a wise sovereign in his rule over loving and faithful subjects; for prestige and wealth which would enable him to be the intellectual leader of Europe. But for twenty-seven years, he was a seeker and never a finder. Small wonder it is that a man of such

persistent ambition frequently allowed the meaner side of his nature to show itself, often stooped to the questionable practices of his day. Even a philosophical genius does not rest well in the shade for twenty-seven years.

Finally, in 1607, when Bacon was forty-six years of age, the long-desired preferment came, in the form of appointment to the Solicitor-Generalship. Bacon, still a member of Parliament, celebrated his good fortune by a famous speech urging the union of England and Scotland. Not successful by this method, he forced a case before the courts. He argued ably before the Exchequer Chamber and belabored the judges outside the court as well as inside until he secured a decision that by the operation of the law all of the *postnati* were naturalized. During his six years in this office, Bacon handled the Solicitor's business efficiently and with the zeal of the public prosecutor of a king by divine right. His private affairs flourished and he was becoming rich, as well as powerful.

All the while, the Solicitor-General was not forgetful of other steps in the ladder to be scaled. His efforts to become Attorney-General bring up an important crisis in the historic struggle between Bacon and Sir Edward Coke. The relations of these two great figures always varied from cordial dislike to bitter hatred. In intellectual and political outlook, the two men were natural opposites. It will be recalled that twenty years earlier they had come into collision in connection with Elizabeth's selection of a Solicitor-General and Coke had won. When later Coke was made Attorney-General, for once Bacon did not greatly desire the Solicitorship as Coke would have been his immediate superior. They also collided in their efforts to secure the position of head of the household of Lady Hatton, a place made vacant by the death of the lady's husband. Bacon

was then a promising young man and unincumbered, except by debts, and there was no apparent reason why he would not win his suit, especially as he had the expert aid of Essex. On the other hand, it has been said, there were seven reasons why Coke should fail—six children and the irascible old widower himself. Yet, for reasons unknown to mere men, Coke again won. Finally, Coke had become Chief Justice of the Common Pleas and Bacon's desire for the Solicitor's place had been fulfilled. But nearly six years had passed with no further promotion for Bacon and he faced the necessity of devising a method of creating a vacancy. His plan was this: to have Coke appointed Chief Justice of the King's Bench, a place, incidentally, of less power and pay than the Common Pleas position, and to promote Attorney-General Hobart to the position to be vacated by Coke. This would leave a vacancy in the Attorney-Generalship for which Bacon would be the logical candidate. The plan suited James, for Coke was opposing the prerogative and Chancery jurisdiction at every turn. So Bacon became Attorney-General in 1613, twenty years after he had first sought the place. His position was now very strong; he had the favor of James and Somerset, and Coke seemed permanently out of the way.

Parliament had been convened to vote money, and Bacon in a strong speech eulogized James and urged the requested supply. But the Commons were more interested in another matter. At this time, many food stuffs and other articles of commerce were controlled by monopolies, grants that were enriching the friends of James and his favorites and which taxed the people in outrageous fashion. These grants even carried with them the right of search by private individuals. In his worship of the prerogative, Bacon seems never to have appreciated fully that evils such as this

might be potent factors in changing the government he supported, factors that might bring great men to ruin. Angry, and fearful that the investigation might go too far, James abruptly dissolved Parliament without receiving the desired funds. Meanwhile, the King's financial needs had not diminished. If an obstreperous Parliament refused to grant the money, then it must be extracted otherwise, regardless of any developing tradition to the contrary. "Benevolences", or compulsory gifts from the King's faithful subjects, were called for. One St. John published a strong letter objecting to these unavoidable donations and was forthwith hauled into Court in a government prosecution for libel. Attorney-General Bacon argued the case against St. John and strenuously defended this mode of raising money. He never intimated any belief that this method of supplying the King's needs without the consent of Parliament might be illegal. It is doubtful if theoretically he would have admitted the legal need of parliamentary consent; and if he had recognized it in theory, probably he would have felt that the immediate circumstances justified the means used. The judges were given no choice in the matter and St. John was convicted. In passing sentence, Egerton, now become Baron Ellesmere, Lord High Chancellor, regretfully expressed the hope that this might be "his last act of judicial duty".

Due to these high-handed methods, what had once been only a murmur now became an uproar of popular disapproval. Members of the Commons, insulted and sent home, sowed seeds of discontent throughout all England. James and his Council were disturbed; something had to be done to curb this outrageous spirit of resistance; some example must be made. Fortunately for them, a clergyman named Peacham had been arrested on a charge of libeling

his Bishop. While he was in jail, his house had been searched and rough notes of a sermon were found in which it was intimated that James might expect the wrath of the Almighty in some form or other if he did not desist from his iniquitous practices. The sermon had not been delivered and the preacher was too insignificant to give any real cause for alarm. But here was a sheep for the sacrifice. The King in Council decided that Peacham should be tried for treason, and eight men, among whom were two privy coun-
cilors and Attorney-General Bacon, were delegated for the prosecution. The old man was put to extreme torture, a practice that was being discarded in England, except in the case of serious political offenses. But he revealed nothing and the prosecutors had to fall back on the unpublished notes of the sermon if a case of treason were to be made out. It was apparently doubtful, even to them, if a conviction could be secured on this evidence. The court was that of Coke, and Coke could be relied upon to stand by the law as well as to dominate his colleagues. James decided that these difficulties could be overcome only by a conference with the judges individually before the trial had been completed and before they could have an opportunity to consult each other. In this way, both Coke's stand and his leadership could be nullified. Bacon arranged the details of these conferences, assigning others to the lesser lights of the court but reserving Coke for himself. By this means, all of the judges, except Coke, were committed in advance to conviction. Coke argued that a sermon, written but not published, could not amount to treason and that mere assertion of lack of governing ability on the part of James was not a treasonable act. He also roared forth his opinion in unambiguous terms that the practice of forcing judges to commit themselves individually in a private conference

was contrary to the law of the land. Peacham was convicted and relations between Bacon and Coke were more strained than ever.

Reference has been made to these two cases because frequently the whole plan of investigation as well as prosecution has been laid at Bacon's door. It is historically true that both trials were ordered and directed by James and his Council and that Bacon was primarily only one of the public prosecutors. But it is difficult to understand how a man like Bacon could even appear to be fundamentally in sympathy with "benevolences" and with torture. Also, in Peacham's case, his tactics with the judges favor the belief that he knew that the defendant should be acquitted under the law. Yet in both trials, he did his utmost to win a decision. To all outward appearances, his zeal was actuated by conviction as well as by a sense of duty. Bacon was not the originator of the plan but no amount of faith in the royal prerogative as the salvation of England can fully excuse him at this point, either in word or deed. Limiting our criticism to fundamentals, he either allowed his political theories to blind him to the realities or he was not strong enough in character to give up his office and stand by his opinions.

The Lord Chancellor, Ellesmere, was failing in health and the outstanding men available as his successor were Coke and Bacon. Fortunately for the latter, a heavy storm was about to break around his rival which ended in his fall. The chief cause of Coke's trouble lay in the fact that his ideas of government were fundamentally different from those held by James and Bacon. Coke was probably the foremost Common Law judge of all time. To him the Law was the greatest institution in the English government, the protector of the common liberties. Even the King should be under the Law. Therefore, it followed natu-

rally, in his mind, that if the Law was to be applied impartially, the judges should be free from royal or other interference. At every turn, Coke resented and resisted the interference of the Chancellor in Equity proceedings and well he might, for then Equity jurisdiction served as often to afford opportunity for personal interference by the King as to rectify inadequacy in the Common Law. Also, James frequently outraged Coke's sense of justice by requiring a conference before he could pass judgment on a case according to the law and the facts. Coke's repeated outbursts naturally lowered his standing with James, and Bacon finally had an opportunity to avenge himself. After a heated dispute between Coke and the new favorite, Buckingham, over some judicial patronage, it was decided that Coke should be disciplined. Following largely the suggestion of Bacon, Coke was compelled to admit the right of the King to interfere in judicial processes and he was directed to go over his Reports and remove statements tending to limit the royal prerogative. In the end, Bacon had the pleasure of making out a warrant calling for the appointment of Coke's successor and of seeing his enemy removed from the Privy Council.

On March 3, 1617, Lord Chancellor Ellesmere, worn by age and infirmities, surrendered the Great Seal and, with it, his duties as Chancellor. Four days later, Bacon was appointed his successor, with the title of Lord Keeper of the Great Seal. At last, his cup was full and overflowing. Almost universal satisfaction greeted his promotion; he was overwhelmed with congratulations from friends and from the universities of Oxford and Cambridge. He had risen after years of struggle and bitter disappointment to the position held by his father, he could live in the home of England's Chancellors, York House, where he had been born. He was thankful that he had not yielded to dis-

couragement and retired to academic seclusion to revolutionize science and philosophy.

His beginnings were auspicious. His inauguration was a splendid occasion. Bacon, clad in purple, was followed through the streets of London by a long and richly caparisoned procession of officers of the court, privy councilors, judges, earls, and barons. Here, at last, with all the trappings, he was great among the great and powerful among the powerful. In a most gracious inaugural address, overflowing with gratitude and happiness, Bacon pledged himself to a program of practicality, efficiency, and justice. He would keep the Chancery Court within its true limits as he conceived them, he would weigh carefully all matters to which he should put the Great Seal, he would avoid all unnecessary delays and needless expense to suitors. Here is Bacon the idealistic judge at the beginning of his term. One sentence must be quoted to illustrate the fallacy on which the whole tragedy of Bacon's public life was based, "It is my comfort to serve such a Master, that I shall need to be but a conduit only for the conveying of his goodness to his people". Goodness, unfortunately, was never a predominating quality in any ruler he served.

For a short time Bacon appeared at his best. He prepared new orders for governing the procedure of his court. He came early and stayed late. He listened patiently to every bit of evidence and discussion that would aid him in his decisions. He cut off lawyers, wandering in useless verbosity from the issue. His decrees were prompt and just. In only a month's time his docket was clear of all cases, cases that had arisen within his term and a multitude inherited from his predecessor.

This happy condition, however, was short-lived. When leaving Scotland, the King had promised to make periodic

visits to his native land. At this point James and Buckingham set out for the Northern Kingdom, leaving Bacon practically in charge in England. Again the inextinguishable Coke appeared on the scene. He had conceived the idea of marrying his daughter by the wealthy Lady Hatton to Buckingham's brother. Bacon felt that such an alliance of a Buckingham with the disgraced Coke would be an outrage and was delighted to learn that Coke's wife also opposed the marriage. In his intemperate zeal, Bacon conspired with the lady to thwart the designs of her husband. He dispatched a letter to Scotland, sounding a warning, but unfortunately events came on so rapidly in England that he felt obliged to act before he could hear from James or Buckingham. Lady Hatton carried off her daughter and concealed her. Coke traced them to their hiding place and demanded a warrant from Bacon to recover the girl. Upon being refused, he collected a band of men, broke into the house, and took her away by force. For this act Bacon had proceedings started against Coke in the Court of the Star Chamber. Then came a letter from Scotland thoroughly approving of the match and striking terror into Bacon's soul. At once he recalled the action he had started, he tried to reconcile Coke's wife to the marriage, and sent a special messenger to Scotland to tell of his change of heart. It was some time before he succeeded in ingratiating himself by profuse and abject apologies into the good graces of the King and his favorite. Finally he was forgiven, but he always had the feeling that he continued to hold his office through the tolerance of Buckingham. His miserable blunder placed him more than ever in the debt of this unscrupulous courtier.

Although he had previously advised Buckingham against aiding suitors and interfering with judges, now he had

to receive his solicitations for friends with the best grace possible.

What at first had been only insinuating requests for interest in so far as consistent with justice, later became practically insolent commands. How Bacon, under these circumstances, avoided personal difficulty and rank injustice is not easily understood. Yet he seems to have succeeded. In all these years of bitter controversy but one case has been discovered where justice might have been perverted due to the importunities of Buckingham. This case, after Bacon's decree, was referred to a commission; and the party who had won in court forthwith abandoned his suit. The fact that but little record, if any, exists of protest against such interference, shows to some extent Bacon's realization of obligation to Buckingham.

Private suits continued to pass before Bacon as usual; but in cases affecting the royal interests, his close adherence to the King became more pronounced with the passing of time. The limitations of space prevent more than mere mention of a few of many incidents illustrative of this tendency. He had to acquiesce in the continuance of the hateful monopolies, though he had earlier implied he would stop them when they came to the Great Seal. The members of the inner circle continued to enrich themselves at the expense of the people and Bacon committed to prison all who violated these grants. He stood conspicuously with the prosecution in the infamous trial of Sir Walter Raleigh, and in the questionable proceedings disgracing Attorney-General Yelverton. A man could not hold the highest political office in England under James the First and do other than slavishly follow the royal lead.

What Bacon really thought of his actual situation we cannot know, but in externals he had all that a vain heart

could desire. He had just published his "Novum Organum" which brought him instant fame in the thinking world. Only Coke failed to recognize its merits and, in spite of his aversion to poetry, wrote on the title page of his presentation copy:

It deserves not to be read in schooles,
But to be freighted in the ship of Fooles.

Scholars from all parts of the world visited England to pay homage to her most distinguished citizen. He received universal plaudits as England's greatest orator, judge, statesman, and philosopher. The coveted title, Lord High Chancellor, was his and he had become Baron Verulam and later Viscount St. Albans. He was wealthy and lived in great pomp and splendor. Gifts, as well as fine words, poured in from the multitude who courted his favor. He seemed intoxicated by his own greatness.

Altogether, Bacon's days were too bright for him to see any clouds on the horizon, clouds of indignation at general governmental oppression and mal-administration. When James again needed money Bacon serenely advised the calling of Parliament and assisted in detail in drawing up plans for the session. The two houses assembled and, true to immediate expectation, voted liberal supplies. This unusual generosity, however, was probably only a show of good faith, calculated to make possible an uninterrupted consideration of grievances. The moving spirit in these deep-laid plans was none other than Sir Edward Coke. He had become dissatisfied at holding no office and had entered the Commons to become its leader. Two committees were started to work; one investigating monopolies, the other, charges of judicial corruption that had been brought in. The Commoners were in that turbulent, unmanageable mood which Bacon never could understand.

They were seeking any particular weak spot through which they might attack the government in general.

The committee investigating monopolies soon unearthed a system of plunder that penetrated to the ends of the kingdom. The proceedings gained momentum rapidly. Buckingham's brother and others in high position were becoming the center of a storm that might have no limits. James and Buckingham were thoroughly frightened. Matters had gone too far for a dissolution to be safe, so they decided to send out of the country on an embassy several of the implicated who were in highest favor and leave the others to the tender mercies of the Commons. These mercies consisted of fine, imprisonment, and disgrace.

The second attack was aimed directly at the alleged bribery of certain judges. All England's officialdom, from the King to the lowest judge, had long been thriving under a system of gratuities that was bordering on wholesale corruption, to say the least. The practice was coming into general disrepute but it seems that even if judges limited themselves to the acceptance of gifts after their decisions had been rendered, they could still have found security behind universal custom. However, gifts taken during the process of litigation were gradually being placed in the category of bribes. At first Bacon seems to have been oblivious to the fact that the work of this investigating committee might reach him, although he knew Coke was its prime mover. But, with or without corruption, he had been accepting donations from all sources and under all circumstances. To all this his unsupervised subordinates had added their own collections and extortions. Bacon, however, in rendering his decrees, seems to have ignored these obligations. For the sake of his reputation, if not his character, this was unfortunate, for several individuals

who had paid well but had later lost heavily in their suits were only too willing to testify against the Lord Chancellor himself. Here was a man, high in the King's favor, who might be made an example and through whom the odious system of gratuities might be attacked. When he saw the deadly intent of the Commons, Bacon's complacency and courage left him. He petitioned wildly for aid from the King and Buckingham. But the entire Court was panic-stricken and no aid was forthcoming. James, at one time, planned to dissolve Parliament but was advised against such a move. Sick, either from fear or physical weakness, the Lord Chancellor retired to his bed and let matters take their course. Impeachment proceedings were unavoidable. Public sentiment, now thoroughly aroused all over England, demanded vindication. The Commoners had found another vulnerable point, found it at a time when the old weapon of dissolution was too dangerous to use, and they pressed their charges vigorously. Coke kept studiously in the background, but darkly cited precedents where judges had been executed for bribery.

The charges were twenty-eight in number and primarily concerned the acceptance of gifts during and after litigation. No defense was made except that Bacon insisted that his decisions were never influenced by favors of the parties. He was unable to appear before the Lords, all that came from him being given to a commission which called on him from time to time. In the end he confessed in full and in particular to the charges brought against him. He piteously begged his judges "to be merciful unto a broken reed". On May 3, 1621, sentence was passed. He was removed from office, fined forty thousand pounds, sentenced to imprisonment during the King's pleasure, and forbidden to sit in Parliament or to come within the verge of the Court.

Whether Bacon was really guilty of corruption in the modern sense of the term is perhaps an easier problem to solve than is the question of a full confession without any serious effort at defense. That he had accepted gifts before the conclusion of suits is an admitted fact. But historians who know the period best are fairly unanimous in the belief that Bacon was probably not consciously influenced in his decisions by these donations. If this conclusion be correct, then why did he go down in ignominious defeat with scarcely a struggle? Here again only a number of surmises can serve as a basis for any conclusion. It is possible that the confession was a sacrifice on Bacon's part to protect the King and Buckingham. We know that Bacon was in communication with them. On one occasion he is supposed to have said to James: "I see my approaching ruin; there is no hope of mercy in a multitude. When my enemies are ready to give fire am I to make no resistance, and is there none to shield me? Those who strike at your Chancellor will strike at your crown. I am the first, I wish I may be the last sacrifice". It is possible that the King, frightened by the general attack, ordered Bacon to confess, and Bacon was not a man to save his honor by refusing to obey. Another possible explanation lies in the fact that three centuries ago, impeachment proceedings were frequently employed as a method of attacking ministers and governmental policies in general. It was a clumsy weapon but so effective that it assisted materially in the evolution of responsible government in England. To some extent, at least, Bacon was a victim of this system. It is likely that he recognized that his many indiscretions had placed him in an impossible position. The righteous indignation of all England was centered on him. He could not deny that he had accepted gifts, and this in itself was sufficient to

raise a strong presumption of a deeper guilt. He could intrigue to ward off the blow but he was not a man to fight against overwhelming odds, even if his honor were at stake. He had done what in theory he knew to be wrong, and he paid the penalty. His questionable practices were contrary to the developing morals of his age, and the wrath of a people outraged by general misrule came upon him. History records no greater fall.

The King allowed Bacon to remain in the Tower less than a week and his property, taken for the fine, was assigned to friends to be held by them for Bacon's benefit. He could no longer live in luxury, but he was not in poverty as the assignment was a bar to private creditors. No sooner had he been released from prison than he began to petition Buckingham to intercede for him in the hope of regaining some of his lost prestige and possibly his lost office. Complete restoration, however, was impossible. While James was still somewhat kindly disposed toward him, Bacon could never again be made the second "prop" of the kingdom. He was not the type of man, nevertheless, to spend his last days sulking and in idleness. He continued to give private advice to James and he vigorously pursued his scholarly work until the end. In 1626, five years after his fall, he died from exposure incident to his well-known experiment for testing the preservative quality of snow. In his will the numerous bequests far exceeded his assets, but Bacon wisely left his name and memory "to men's charitable speeches and to foreign nations, and the next ages".

What has been the judgment of the "next ages" regarding the public life of Bacon? The quality of his statesmanship is difficult to determine for men of later ages have often failed to discount sufficiently the conventional courtly

pretenses of men of the seventeenth century. To modern ears, Bacon the courtier speaks so loudly that Bacon the statesman can scarcely be heard. But if the necessary allowances can be made, it is possible to observe a real consistency of opinion on most of the leading questions of the day. First and foremost was Bacon's unwavering support of the royal prerogative. No doubt ever entered his mind but that the affairs of England were safer under the rule of a king than under the control of an inexperienced and unstable Parliament. But, although he reserved a small place for Parliament, he always advised fair treatment, and, had his continual suggestions been heeded, the coming revolution might have been avoided. As to foreign affairs, Bacon uniformly advocated an aggressive policy. Vigor in this field, he believed, would not only advance England to a place of unquestioned leadership among the nations of Europe; it would also strengthen the nation internally by drawing the King and the people closer together. As has been seen, his ideas of religious tolerance were far in advance of the thinking of his day. His plan for the pacification of Ireland lay in generous and just treatment and in the scattering of English settlers among the natives. The accession of James had brought to the front the question of the future relationship of England and Scotland. History has amply justified Bacon's advocacy of immediate union of the two countries and of complete naturalization of the Scots.

However, it is when we consider Bacon, the judge and legal thinker, that we find him not only among the great of his age, but also among the great of all time. Ample reference has already been made to his general efficiency and justice on the bench. But so much attention has often been given to individual irregularities as to lead to a minimizing

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and a misunderstanding of what is more important, his general legal attitude. His frequent interference with judges, Coke in particular, has caused him to be looked upon as one who was a selfish obstructionist and one who sought to destroy the independence of the judiciary. Many, who have written after subsequent history had made clear the course of legal development, have failed to realize that three centuries ago there was room for reasonable difference of opinion on this and other similar questions. It should be remembered that Bacon and Coke belonged essentially to different schools of legal thought. Throughout their generation and for more than a hundred years, the English judicial system passed through a critical period. The Common Law was full of antiquated precedents and entangled in the meshes of its own technicalities. For a long time the decisions of its judges were not reported in the Year Books. Only Civil and Canon Law were taught in the universities. Many were fearful that the Civil Law with its broad principles of justice and relative freedom from technicality would displace the Common Law. Equity, based largely on that system, had already made deep inroads. Its friends were the natural enemies of Coke and his school, who believed their independence and precedents to be the sole means of England's salvation.

Bacon, on the other hand, was undoubtedly honest in his belief in the unification of the authority of the state in a beneficent kingship. He might seek to make his own judicial course easy by attempting to persuade Buckingham that interference with judges was improper, but it is difficult to reconcile the rest of his career in thought and act with the idea of an absolutely independent judiciary. He would not have objected to independence in connection with private suits, but in cases where the rights and interests of

the crown were at stake he undoubtedly would not have admitted that the complete separation of the judges from the rest of the government was necessary or even desirable. In cases affecting the State, judges should be merely "conduits" through which the royal goodness might flow. To use another of Bacon's figures, judges should be "lions" but "lions under the throne".

There is real ground for believing also that Bacon's philosophical tendencies and his legal study and experience predisposed him to favor a system of law that was flexible and based on broad principles of justice, as opposed to one founded on rigid adherence to precedent to the frequent sacrifice of justice and efficiency. Undoubtedly the broad principles of Equity appealed to him strongly, in contrast to the torturous methods of seventeenth century Common Law.

Bacon saw in Coke a man who apparently forgot the fundamentals of justice and worshipped precedents for their own sake, while Coke saw in Equity only an excuse for the exercise of the king's erratic conscience. Much could be said for and against the position of each man. Had it been possible, it seems certain that Bacon would have revised the whole legal system, discarding obsolete laws, codifying the rest, and reforming procedure. The fundamentals of his ideal system of law were set forth in his "Maxims of the Law" and further developed in his "Fountains of Equity". These were intended to serve as an introduction to his "Digest of the Laws of England" and his "Rules and Decisions". This magnificent undertaking, like many other of his visions, was planned but never completed. Such a work, Bacon hoped, would demonstrate which was the greater judge, he or Coke. It would have been his legal "Novum Organum".

It was not until the nineteenth century that England relieved her courts of most of the obsolete laws and of oppressive technicality in procedure; perhaps America is only on the verge of similar relief. Equity, with its Civil Law principles, has come to occupy a large field in our jurisprudence. Bacon may be censured for becoming an active force in a system through which little goodness was flowing but his vision of the law must not be overlooked. In much of his legal theory he may well be ranked with Lord Mansfield and Kent.

In contrast to a dream unrealized, his hundred rules for the Court of Chancery constitute a really monumental achievement. Up to Bacon's time the basic principles of procedure in Equity had not yet been definitely established and clearly defined. True to his character, Bacon sought to bring order out of chaos. It cannot be said that he originated all of these rules; many of them had been put into practice by his predecessors. But he introduced many and forcefully codified all. He probably did more than any other man to form and settle procedure in Equity for the Anglo-Saxon world. This alone is no mean claim to real greatness.

Bacon's public life is one of the greatest tragedies of all history. High as were his achievements, they were often overshadowed by heights he failed to scale. He was born to live in an age where the truly great could not rule. One cannot believe that Bacon deceived himself; so persistent an opportunist must have understood the realities. But he had to rule. Ambition, personal vanity, and economic necessity—each intensified by bitter disappointment—drove him on. Had he only been able to serve under a wise and beneficent monarch, he might have been a Solon. But Solon himself would have had a difficult time under Elizabeth and James. Had he followed his strong inclinations

to desert politics and devote himself to a life of contemplation, he might have been an Aristotle, or a Newton, or a Shakespeare; yes, he might almost have been Shakespeare. For such a misfortune to the man and to humanity, perhaps, after all, we should have only "charitable speeches" and say with Othello, ". . . the pity of it, Oh . . . the pity of it".

SAMUEL GLENN MCCANN.